



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Transportation and
Public Facilities

NORTHERN REGION
Right of Way Division

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July 7, 2013

Wayne Pepler
978 Mark Way
North Pole, AK 99705

Re: Section Line Easement
Section 15/14, T.1S., R.1E., F.M.

Dear Mr. Pepler:

You have requested that I provide an opinion as to the status of the section line easement between Sections 15 and 14 of Township 1 South, Range 1 East, Fairbanks Meridian. Specifically, you have requested an evaluation of the segment of the section line that relates to the westerly boundary of your Lot 5, Block 1, Lakloey Park Subdivision filed as Plat No. 72-43 on October 13, 1972 in the Fairbanks Recording District. This section line would split the 160 acre parcel of land patented to Joel Carter Smith (Patent # 1125296) on April 8, 1949. Please note that the section line easement in question is not a part of the Alaska Highway System and therefore not within the jurisdiction of DOT&PF. My evaluation is based upon my experience in working with section line easements and should not be considered an official DOT&PF assertion. Any concerns you have about the legal issues related to section line easements or the risk you may incur should be addressed to your attorney or title insurance agency.

For a federal section line easement to exist there are three requirements. First the section line must exist, that is, it must have been surveyed and platted. This is considered to have occurred when the official federal township plat that reflects the survey and monumentation of the section line in question has been approved. The federal plat that relates to the survey of the section line between Sections 15 and 14 was approved on October 9, 1913. Next, there cannot be a federal section line easement unless there has been an offer and acceptance of the right of way grant. The offer for federal section line easements was made under the Mining Law of 1866 and re-enacted as Revised Statute 2477 (RS2477). The grant for a 66-foot wide easement between each section of land was initially accepted by the Alaska Territorial Legislature on April 6, 1923. There was a hiatus period between 1949 and 1953 when the grant acceptance was not in place and eventually the RS2477 grant offer was repealed in 1976. However, as the township survey in question was approved prior to the hiatus period, it has no effect on the section line easement evaluation. Finally, for the section line easement to attach, the federal lands crossed by the section line must be unreserved. This status can generally be obtained from the BLM records. The BLM records for the Smith homestead entry indicate that the application leading to patent was filed on April 29, 1947. For this application to have been filed, the lands must have been unreserved and open for entry.

At the time of township approval (October 9, 1913), the RS2477 grant offer had yet to be accepted by the Territorial legislature. However, once the Territory accepted the grant on April 6, 1923, if the lands were unreserved any time between that date and the Smith homestead entry date (April 29, 1947), the section line easement would attach. Therefore, the conditions leading to the establishment of a 66-foot wide section line easement along the half mile segment of the line between Sections 15 and 14 lying within patent No. 1125296 may have occurred at any time after date of the Territorial acceptance of the RS-2477 grant on April 6, 1923 and before the date of the Smith homestead entry.

Presuming that a vacation of the section line easement has not been approved since its establishment, the full 66-foot wide section line easement still exists.

If you have any further questions regarding this correspondence, please feel free to contact me at (907) 451-5423 or by email at johnf_bennett@dot.state.ak.us.

Sincerely,

A handwritten signature in black ink that reads "John F. Bennett". The signature is written in a cursive style with a large, sweeping initial "J".

John F. Bennett, PLS, SR/WA
Chief, Right of Way